had for years been fully adequate, it was not sufficient to fill the abnormal demands made during this period. The Public Service Commission ordered the respondent to connect no more consumers, and pursuant to this order, the respondent refused the relator its connection. *Held*, that a writ of mandamus should be granted compelling the respondent to give the relator its connection. *Park Abbott Realty Co.* v. *Iroquois Natural Gas Co.*, 168 N. Y. Supp. 673.

For a discussion of this case, see Notes, page 1028.

PUBLIC SERVICE COMPANIES — REGULATION OF PUBLIC SERVICE COMPANIES — WHAT ARE REASONABLE RATES AFTER TERMINATION OF FRANCHISE. — After the expiration of a water company's franchise the city passed an ordinance fixing the rates to be charged by it, providing, *inter alia*, for annual hydrant rentals which were to include such hydrants as the Council might thereafter require. The company sued to have the city enjoined from enforcing this ordinance on the ground that the rates fixed were confiscatory. *Held*, that in determining the reasonableness of the rates the plant was to be valued as a plant in use, and the item of "going value" was to be considered. *City and County of Denver* v. *Denver Union Water Co.*, 38 Sup. Ct. Rep. 278.

The state has of course the right to regulate the rates of public service companies. *Spring Valley Waterworks* v. *Schottler*, 110 U. S. 347. In order not to constitute a taking of property without due process these rates must allow a reasonable return on the value of the company's plant. *Brymer* v. *Butler Water Co.*, 179 Pa. 231, 36 Atl. 249. The usual method of valuing the plant is to find the cost of replacement, deduct the depreciation, and add an item for "going concern value." The latter is the additional value of the plant over its value as an assembled plant due to the fact that it is in actual operation. In a rate case at least the fact that the company is or is not making profits is not to be considered as an item of "going value." *Des Moines Gas Co.* v. *Des Moines*, 238 U. S. 153; *National Waterworks Co.* v. *Kansas City*, 62 Fed. 853; *Spring Valley Waterworks* v. *San Francisco*, 192 Fed. 137. In the principal case the company's franchise had expired, and as between the parties the city had a right to compel the company to remove its pipes within a reasonable time. *Laighton* v. *Carthage*, 175 Fed. 145. It was argued for the city that the plant was therefore to be valued as junk and the item for going value was erroneous. But it would seem that the city's duty to the people would defeat its right to require a removal of the pipes until a substitute had been provided. In any event the city by its regulating ordinance in effect gave the company a license for an indefinite term. *Cedar Rapids Water Co.* v. *Cedar Rapids*, 118 Iowa, 234, 91 N. W. 1081. So long as this license continued the company was subject to regulation and bound to supply water. *Laighton* v. *Carthage*, *supra*. The plant was a going one and was properly valued as such. *Cedar Rapids Water Co.* v. *Cedar Rapids*, *supra*. The decision seems not only sound but eminently desirable.

STATE — SUIT AGAINST AN OFFICER NOT NECESSARILY SUIT AGAINST THE STATE. — Upon the insolvency of a bank against which the plaintiff held a certificate of deposit, the defendant who was Bank Commissioner under a Deposit Guarantee Plan, took possession of the bank and its assets. It was alleged that he exercised his power so arbitrarily and capriciously that plaintiff was damaged to the extent of his certificate of deposit. *Held*, that this was not an action against the state. *Johnson* v. *Lankford*, 38 Sup. Ct. Rep. 203.

That the Eleventh Amendment secures to the states immunity from private suits has long been established. *Hans* v. *Louisiana*, 134 U. S. 1. When a suit is against the state and when against an officer personally is not always easy to determine. The test — whether the state is a party of record — has long